IN THE HIGH COURT OF JUDICATURE
FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.9288/2007.

Rajak Khan
Vs.
Smt.Chitra Devi and ors.

Date of order : 19/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Shashi Bhushan Gupta for the petitioner.

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BY THE COURT:-

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 14/9/2007 whereby the application under Order 14 Rule 5 CPC for deleting Issue No.4 was rejected.

Learned counsel for the petitioner has argued that the order rejecting the aforesaid application suffers from legal infirmities inasmuch as, it has been passed without jurisdiction and if it is allowed to stand, it would occasion failure of justice and also caused irreparable loss to the petitioner. When the suit itself was dismissed as

not maintainable, the respondents were not entitled to any relief on the basis of the provisions mentioned in the Rent Control Act, 1950. The suit filed by the plaintiff-respondents was dismissed on 26/5/2003 against which the non-petitioners preferred an appeal and thus that order also attained finality. The learned trial court has rejected the application for deleting Issues No.4 and 7 on the ground that since defendant-petitioner denied the fact about being his tenant of the plaintiff landlord. The said argument was rebutted by the plaintiff-respondents in their rejoinder and in that view of the matter, Issue No.7 was framed. So far as earlier Suit No.255/84 is concerned, same was not rejected on merits. The trial court held that there was no reason why the Issue No.7 be deleted. In such circumstances, the trial court rejected the application.

Having considered the arguments of the learned counsel for the petitioner and perused the finding recorded, I do not find that the trial court has committed any such illegality or infirmity as may be categorised as apparent error on the face of record.

The writ petition being devoid of merit is accordingly dismissed.

(MOHAMMAD RAFIQ), J.

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